

CIVIL SERVICE COMMISSION MINUTES

November 3, 1999

A regular meeting of the Civil Service Commission was held at 2:30 p.m., in Room 310 at the County Administration Building, 1600 Pacific Highway, San Diego, California.

Present were:

Roy Dixon
Gordon Austin
Sigrid Pate

Comprising a quorum of the Commission

Support Staff Present:

Larry Cook, Executive Officer
Ralph Shadwell, Senior Deputy County Counsel
Selinda Hurtado-Miller, Reporting

CIVIL SERVICE COMMISSION MINUTES
November 3, 1999

1:30 p.m. CLOSED SESSION: Discussion of Personnel Matters and Pending Litigation

2:30 p.m. OPEN SESSION: Room 358, 1600 Pacific Highway,
San Diego, California 92101

PRE-AGENDA CONFERENCE

<u>Discussion Items</u>	<u>Continued</u>	<u>Referred</u>	<u>Withdrawn</u>
			4

COMMENTS Motion by Pate to approve all items not held for discussion; seconded by Austin. Carried.

CLOSED SESSION AGENDA
County Administration Center, Room 458
(Notice pursuant to Government Code Sec. 54954.2)
Members of the Public may be present at this
location to hear the announcement of the
Closed Session Agenda

A. Commissioner Pate: Richard Pinckard, Esq., on behalf of **Hans Nagorr** appealing an Order of Removal of Corporal Premium Pay from the Sheriff's Department.

B. Commissioner Dixon: Bonita Martinez, Esq., on behalf of **Jacqueline Langston** appealing an Order of Removal from the Health and Human Services Agency.

C. Ralph Shadwell, Esq., Senior Deputy County Counsel: **Caloca v. County of San Diego** (1999) Cal. App. 4th.

REGULAR AGENDA

NOTE: Five total minutes will be allocated for input on Agenda Items unless additional time is requested at the outset and it is approved by the President of the Commission.

MINUTES

1. Approval of the Minutes of the regular meeting of October 6, 1999.
2. Approval of the Minutes of the special meeting of October 14, 1999.

CONFIRMATION OF ASSIGNMENTS

3. Commissioner Dixon as hearing officer in the appeal of **Ronald Portz** from an Order of Termination and Charges from the Office of the Marshal.

Confirmed.

WITHDRAWALS

4. **Danny Stevens**, appeal of an Order of Pay Step Reduction from the Sheriff's Department. Commissioner Austin assigned.

RECOMMENDATION: Consider Mr. Stevens' appeal to be abandoned as he has not responded to numerous attempts to contact him by Commission staff or the Union in regard to scheduling the appeal hearing.

Withdrawn.

DISCIPLINES

5. Commissioner Dixon: Bonita Martinez, Esq., on behalf of **Jacqueline Langston** appealing an Order of Removal from the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - dishonesty (stole County property, falsified County documents); Cause II - acts incompatible with Public Service; Cause III - insubordination (disregard for supervisory direction); Cause IV - conduct unbecoming an officer or employee of the County; Cause V - failure of good behavior. Employee was employed as a Recreational Therapy Aide (RTA) at the Edgemoor Geriatric Hospital. As part of her duties, Employee cared for patients' social and recreational needs, as well as ordering supplies for the unit. Agency alleged that E-56 forms (used to order supplies) were falsified, and that Employee ordered supplies for her personal use. Agency also alleged that Employee was dishonest in her statements to Agency Internal Security.

Agency failed to prove by a preponderance of evidence the charges described in Causes I, II, III, IV and V. It is therefore ordered that the Order of Removal and Charges be reversed; that Employee be awarded back pay and interest thereon from the date of the Order of Removal through April 7, 1999; that Employee shall not be entitled to back pay and interest thereon for the period April 8, 1999 and thereafter; and that the proposed decision shall become effective upon the date of approval by the Civil Service Commission.

Motion by Dixon to accept the Findings and Recommendations; seconded by Austin. Carried.

6. Commissioner Pate: Richard Pinckard, Esq., on behalf of **Hans Nagorr** appealing an Order of Removal of Corporal Premium Pay from the Sheriff's Department.

FINDINGS AND RECOMMENDATIONS:

Employee was charged with Cause I - conduct unbecoming an officer; Cause II - failure to meet standards; and Cause III - acts which are incompatible with and/or inimical to the public service. Employee has been a Corrections Deputy Sheriff with the Sheriff's Department for approximately six and one-half years. In 1998, Employee was awarded the assignment of Corporal, which entitled Employee to receive a 5% premium pay per hour over his normal hourly pay rate. As a Corporal in a corrections facility, Employee acted as a Field Training Officer as well as supervising other employees in the absence of the Sergeant or as designated by the Sergeant. On February 4, 1999, Employee positioned himself outside a cell window as an inmate exposed her breasts to him. Employee admitted to three or four similar occurrences. At the Commission hearing, Employee stipulated to the charges set forth in the Department's Order of Removal of Corporal Premium Pay. Having admitted to the charges, Employee was seeking only to challenge the level of discipline.

The Department argued that Employee's conduct was so egregious as to render him unfit as a training officer. The Department stated that Employee used poor judgment, and as a training officer should have known better.

All of the charges under Causes I and II were proven by stipulation. Employee's misconduct was significant and the hearing officer concluded that the removal of premium pay was an appropriate level of discipline. It is therefore ordered that the Order of Removal of Corporal Premium Pay and Charges shall be affirmed; and that the proposed decision shall become effective on the date of approval by the Civil Service Commission.

**Motion by Pate to accept the Findings and Recommendations;
seconded by Austin. Carried.**

7. Commissioner Brummitt: Everett Bobbitt, Esq., on behalf of **Larry Staley** appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION: Deny Hearing

Staff recommendation approved.

8. Commissioner Pate: Everett Bobbitt, Esq., on behalf of **David Lopez** appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION: Deny Hearing

Staff recommendation approved.

9. Commissioner Austin: Everett Bobbitt, Esq., on behalf of **James Parks** appealing an alleged punitive transfer within the Sheriff's Department.

RECOMMENDATION: Deny Hearing

Staff Recommendation approved.

INVESTIGATIONS

10. Commissioner Dixon: Investigating the manner in which **Joyce Eisen, R.N.**, was laid off by the Health and Human Services Agency.

FINDINGS AND RECOMMENDATIONS:

Complainant was formerly a Chief Nurse with the Forensic Mental Health Division within HHSA. In March, 1999 Complainant was laid off from the Forensic Mental Health Division due to a sub-organizational layoff. The Division consisted of 3 components: Support Services, Detentions, and Court Services. Complainant contended that her position was incorrectly included in the layoff of the Detention Services component. An investigation was conducted.

Although Complainant did have at least some responsibility outside of the Detentions component, the investigating officer concluded that an appointing authority can cause the elimination of any position(s) he/she deems necessary and cause layoff(s) of affected employee(s). The appointing authority could have obtained approval for a sub-organizational layoff based on the entire Forensic Mental Health Division. It is therefore recommended that the Civil Service Commission determine that the County did not violate provisions of Rule XIV; and that the Commission determine that the County did not violate the merit basis of the personnel system regarding the subject layoff; and that the Commission read and file this report.

Motion by Dixon to approve the Findings and Recommendations; seconded by Austin. Carried.

LIBERTY INTEREST

11. **Alixandra Rodic** requesting a Liberty Interest hearing concerning her failure of probation in the Health and Human Services Agency.

RECOMMENDATION: Deny Request

Staff recommendation approved.

OTHER MATTERS

Extension of Temporary Appointments

12. Health and Human Services Agency

A. 1 Residential Care Worker Trainee (Yvonne Carter)

B. 1 Senior Systems Analyst (Steve Benkasky)

C. 1 Principal Administrative Analyst (Debra McRae)

13. Department of Information Services

1 Departmental Computer Specialist II (Ralph Kebbe)

RECOMMENDATION: Ratify items No. 12 and 13.

14. Public Input.

ADJOURNMENT:

NEXT MEETING OF THE CIVIL SERVICE COMMISSION WILL BE DECEMBER 15, 1999.